

**REMARKS**

Claims 1-23 and 44-66 were pending in the present application. By virtue of this response, claims 2 and 45 have been cancelled, claims 1, 4-5, 18, 20-22, 44, 47-48, 61, and 63-65 have been amended. Accordingly, claims 1, 3-23, 44, and 46-66 are currently under consideration.

Claim 1 has been amended to include the limitations of claim 2, which has been cancelled. Claim 44 has been amended to include the limitations of claim 45, which has been cancelled. Support for further amendments to claims 1 and 44 can be found in the application as filed, particularly in paragraph [0041]. Additional amendments to the claims have been made to provide correct antecedent basis. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

**Examiner Interview**

Applicant wishes to express gratitude to the Examiner for the telephone interview of July 3, 2007. During which the participants (Examiner Vrettakos and Sanjay Bagade) discussed the amendment provided above. During that call the parties reached tentative agreement that the amendment to claim 1 would overcome the 35 U.S.C. §112 rejection.

**Response filed September 29, 2006**

A voicemail was left by Laura Shires Gallagher for Examiner Vrettakos on Monday, October 22, 2007 regarding the content of the current Office Action. The current Office Action is similar to the Office Action mailed June 29, 2006 and therefore does not address claims 44-66 added in a Response filed September 29, 2006. A return voicemail was received by Laura Shires Gallagher on Tuesday, October 23, 2007 from Examiner Vrettakos indicating that the current Office Action was prepared in July but was not mailed until October 1, 2007. Therefore the newly added claims were not included in the October 1, 2007 Office Action. However, Examiner Vrettakos indicated that claims 44-66 should be treated as rejected.

**Rejections under 35 USC § 112**

Claims 1-23 and 44-66 are rejected under 35 USC § 112 as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, Applicant respectfully submits that creating a fluid channel to fluidly connect the lung with a portion of an airway that is outside the pleural cavity, such that the fluid channel extends through a visceral and parietal pleura and into lung parenchyma such that air may pass directly from the lung parenchyma to the airway is not a situation that occurs in nature.

Applicant further notes that claim 44 recites fluidly connecting the lung with a portion of an airway that is outside the pleural cavity, such that air may pass directly from the lung to the airway. Again, such an occurrence is not found in nature.

In view of the above, Applicant requests withdrawal of this rejection.

**Rejections under 35 USC § 103(a) - I**

Claims 1-23 and 44-66 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cooper et al. (6,692,494).

In response, Applicant contends that in light of the amendments and remarks above, all pending claims are allowable and respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

**Rejections under 35 USC § 103(a) - II**

Claims 1-23 and 44-66 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Keast et al. (6,749,606).

In response, Applicant contends that in light of the amendments and remarks above, all pending claims are allowable and respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

**Rejections under 35 USC § 103(a) - III**

Claims 1-23 and 44-66 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Laufer et al. (6,629,951).

In response, Applicant contends that in light of the amendments and remarks above, all pending claims are allowable and respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

## CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to Deposit Account No. 50-3973 referencing Attorney Docket No. BRONNE00600. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,



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